

AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 632
OFFERED BY MR. INGLIS OF SOUTH CAROLINA
AND MR. LIPINSKI OF ILLINOIS

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “H-Prize Act of 2007”.

3 SEC. 2. DEFINITIONS.

4 In this Act:

5 (1) ADMINISTERING ENTITY.—The term “ad-
6 ministering entity” means the entity with which the
7 Secretary enters into an agreement under section
8 3(c).

9 (2) DEPARTMENT.—The term “Department”
10 means the Department of Energy.

11 (3) SECRETARY.—The term “Secretary” means
12 the Secretary of Energy.

13 SEC. 3. PRIZE AUTHORITY.

14 (a) IN GENERAL.—The Secretary shall carry out a
15 program to competitively award cash prizes in conformity
16 with this Act to advance the research, development, dem-

1 onstration, and commercial application of hydrogen energy
2 technologies.

3 (b) ADVERTISING AND SOLICITATION OF COMPETI-
4 TIONS.—

5 (1) ADVERTISING.—The Secretary shall widely
6 advertise prize competitions to encourage broad par-
7 ticipation, including by individuals, universities (in-
8 cluding historically Black colleges and universities
9 and other minority serving institutions), and large
10 and small businesses (including businesses owned or
11 controlled by socially and economically disadvan-
12 taged persons).

13 (2) ANNOUNCEMENT THROUGH FEDERAL REG-
14 ISTER NOTICE.—The Secretary shall announce each
15 prize competition by publishing a notice in the Fed-
16 eral Register. This notice shall include essential ele-
17 ments of the competition such as the subject of the
18 competition, the duration of the competition, the eli-
19 gibility requirements for participation in the com-
20 petition, the process for participants to register for
21 the competition, the amount of the prize, and the
22 criteria for awarding the prize.

23 (c) ADMINISTERING THE COMPETITIONS.—The Sec-
24 retary shall enter into an agreement with a private, non-
25 profit entity to administer the prize competitions, subject

1 to the provisions of this Act. The duties of the admin-
2 istering entity under the agreement shall include—

3 (1) advertising prize competitions and their re-
4 sults;

5 (2) raising funds from private entities and indi-
6 viduals to pay for administrative costs and to con-
7 tribute to cash prizes, including funds provided in
8 exchange for the right to name a prize awarded
9 under this section;

10 (3) developing, in consultation with and subject
11 to the final approval of the Secretary, the criteria
12 for selecting winners in prize competitions, based on
13 goals provided by the Secretary;

14 (4) determining, in consultation with the Sec-
15 retary, the appropriate amount and funding sources
16 for each prize to be awarded, subject to the final ap-
17 proval of the Secretary with respect to Federal fund-
18 ing;

19 (5) providing advice and consultation to the
20 Secretary on the selection of judges in accordance
21 with section 4(d), using criteria developed in con-
22 sultation with and subject to the final approval of
23 the Secretary; and

24 (6) protecting against the entity's unauthorized
25 use or disclosure of a registered participant's trade

1 secrets and confidential business information. Any
2 information properly identified as trade secrets or
3 confidential business information that is submitted
4 by a participant as part of a competitive program
5 under this Act may be withheld from public disclo-
6 sure.

7 (d) FUNDING SOURCES.—Prizes under this Act shall
8 consist of Federal appropriated funds and any funds pro-
9 vided by the administering entity (including funds raised
10 pursuant to subsection (c)(2)) for such cash prize pro-
11 grams. The Secretary may accept funds from other Fed-
12 eral agencies for such cash prizes and, notwithstanding
13 section 3302(b) of title 31, United States Code, may use
14 such funds for the cash prize program. Other than publi-
15 cation of the names of prize sponsors, the Secretary may
16 not give any special consideration to any private sector
17 entity or individual in return for a donation to the Sec-
18 retary or administering entity.

19 (e) ANNOUNCEMENT OF PRIZES.—The Secretary
20 may not issue a notice required by subsection (b)(2) until
21 all the funds needed to pay out the announced amount
22 of the prize have been appropriated or committed in writ-
23 ing by the administering entity. The Secretary may in-
24 crease the amount of a prize after an initial announcement
25 is made under subsection (b)(2) if—

1 (1) notice of the increase is provided in the
2 same manner as the initial notice of the prize; and

3 (2) the funds needed to pay out the announced
4 amount of the increase have been appropriated or
5 committed in writing by the administering entity.

6 (f) SUNSET.—The authority to announce prize com-
7 petitions under this Act shall terminate on September 30,
8 2018.

9 **SEC. 4. PRIZE CATEGORIES.**

10 (a) CATEGORIES.—The Secretary shall establish
11 prizes for—

12 (1) advancements in technologies, components,
13 or systems related to—

14 (A) hydrogen production;

15 (B) hydrogen storage;

16 (C) hydrogen distribution; and

17 (D) hydrogen utilization;

18 (2) prototypes of hydrogen-powered vehicles or
19 other hydrogen-based products that best meet or ex-
20 ceed objective performance criteria, such as comple-
21 tion of a race over a certain distance or terrain or
22 generation of energy at certain levels of efficiency;
23 and

24 (3) transformational changes in technologies for
25 the distribution or production of hydrogen that meet

1 or exceed far-reaching objective criteria, which shall
2 include minimal carbon emissions and which may in-
3 clude cost criteria designed to facilitate the eventual
4 market success of a winning technology.

5 (b) AWARDS.—

6 (1) ADVANCEMENTS.—To the extent permitted
7 under section 3(e), the prizes authorized under sub-
8 section (a)(1) shall be awarded biennially to the
9 most significant advance made in each of the four
10 subcategories described in subparagraphs (A)
11 through (D) of subsection (a)(1) since the submis-
12 sion deadline of the previous prize competition in the
13 same category under subsection (a)(1) or the date of
14 enactment of this Act, whichever is later, unless no
15 such advance is significant enough to merit an
16 award. No one such prize may exceed \$1,000,000. If
17 less than \$4,000,000 is available for a prize competi-
18 tion under subsection (a)(1), the Secretary may omit
19 one or more subcategories, reduce the amount of the
20 prizes, or not hold a prize competition.

21 (2) PROTOTYPES.—To the extent permitted
22 under section 3(e), prizes authorized under sub-
23 section (a)(2) shall be awarded biennially in alter-
24 nate years from the prizes authorized under sub-
25 section (a)(1). The Secretary is authorized to award

1 up to one prize in this category in each 2-year pe-
2 riod. No such prize may exceed \$4,000,000. If no
3 registered participants meet the objective perform-
4 ance criteria established pursuant to subsection (c)
5 for a competition under this paragraph, the Sec-
6 retary shall not award a prize.

7 (3) TRANSFORMATIONAL TECHNOLOGIES.—To
8 the extent permitted under section 3(e), the Sec-
9 retary shall announce one prize competition author-
10 ized under subsection (a)(3) as soon after the date
11 of enactment of this Act as is practicable. A prize
12 offered under this paragraph shall be not less than
13 \$10,000,000, paid to the winner in a lump sum, and
14 an additional amount paid to the winner as a match
15 for each dollar of private funding raised by the win-
16 ner for the hydrogen technology beginning on the
17 date the winner was named. The match shall be pro-
18 vided for 3 years after the date the prize winner is
19 named or until the full amount of the prize has been
20 paid out, whichever occurs first. A prize winner may
21 elect to have the match amount paid to another enti-
22 ty that is continuing the development of the winning
23 technology. The Secretary shall announce the rules
24 for receiving the match in the notice required by sec-
25 tion 3(b)(2). The Secretary shall award a prize

1 under this paragraph only when a registered partici-
2 pant has met the objective criteria established for
3 the prize pursuant to subsection (c) and announced
4 pursuant to section 3(b)(2). Not more than
5 \$10,000,000 in Federal funds may be used for the
6 prize award under this paragraph. The admin-
7 istering entity shall seek to raise \$40,000,000 to-
8 ward the matching award under this paragraph.

9 (c) CRITERIA.—In establishing the criteria required
10 by this Act, the Secretary—

11 (1) shall consult with the Department's Hydro-
12 gen Technical and Fuel Cell Advisory Committee;

13 (2) shall consult with other Federal agencies,
14 including the National Science Foundation; and

15 (3) may consult with other experts such as pri-
16 vate organizations, including professional societies,
17 industry associations, and the National Academy of
18 Sciences and the National Academy of Engineering.

19 (d) JUDGES.—For each prize competition, the Sec-
20 retary in consultation with the administering entity shall
21 assemble a panel of qualified judges to select the winner
22 or winners on the basis of the criteria established under
23 subsection (c). Judges for each prize competition shall in-
24 clude individuals from outside the Department, including

1 from the private sector. A judge, spouse, minor children,
2 and members of the judge's household may not—

3 (1) have personal or financial interests in, or be
4 an employee, officer, director, or agent of, any entity
5 that is a registered participant in the prize competi-
6 tion for which he or she will serve as a judge; or

7 (2) have a familial or financial relationship with
8 an individual who is a registered participant in the
9 prize competition for which he or she will serve as
10 a judge.

11 **SEC. 5. ELIGIBILITY.**

12 To be eligible to win a prize under this Act, an indi-
13 vidual or entity—

14 (1) shall have complied with all the require-
15 ments in accordance with the Federal Register no-
16 tice required under section 3(b)(2);

17 (2) in the case of a private entity, shall be in-
18 corporated in and maintain a primary place of busi-
19 ness in the United States, and in the case of an in-
20 dividual, whether participating singly or in a group,
21 shall be a citizen of, or an alien lawfully admitted
22 for permanent residence in, the United States; and

23 (3) shall not be a Federal entity, a Federal em-
24 ployee acting within the scope of his employment, or

1 an employee of a national laboratory acting within
2 the scope of his employment.

3 **SEC. 6. INTELLECTUAL PROPERTY.**

4 The Federal Government shall not, by virtue of offer-
5 ing or awarding a prize under this Act, be entitled to any
6 intellectual property rights derived as a consequence of,
7 or direct relation to, the participation by a registered par-
8 ticipant in a competition authorized by this Act. This sec-
9 tion shall not be construed to prevent the Federal Govern-
10 ment from negotiating a license for the use of intellectual
11 property developed for a prize competition under this Act.

12 **SEC. 7. LIABILITY.**

13 (a) WAIVER OF LIABILITY.—The Secretary may re-
14 quire registered participants to waive claims against the
15 Federal Government and the administering entity (except
16 claims for willful misconduct) for any injury, death, dam-
17 age, or loss of property, revenue, or profits arising from
18 the registered participants' participation in a competition
19 under this Act. The Secretary shall give notice of any
20 waiver required under this subsection in the notice re-
21 quired by section 3(b)(2). The Secretary may not require
22 a registered participant to waive claims against the admin-
23 istering entity arising out of the unauthorized use or dis-
24 closure by the administering entity of the registered par-

1 participant's trade secrets or confidential business informa-
2 tion.

3 (b) LIABILITY INSURANCE.—

4 (1) REQUIREMENTS.—Registered participants
5 shall be required to obtain liability insurance or
6 demonstrate financial responsibility, in amounts de-
7 termined by the Secretary, for claims by—

8 (A) a third party for death, bodily injury,
9 or property damage or loss resulting from an
10 activity carried out in connection with participa-
11 tion in a competition under this Act; and

12 (B) the Federal Government for damage or
13 loss to Government property resulting from
14 such an activity.

15 (2) FEDERAL GOVERNMENT INSURED.—The
16 Federal Government shall be named as an additional
17 insured under a registered participant's insurance
18 policy required under paragraph (1)(A), and reg-
19 istered participants shall be required to agree to in-
20 demnify the Federal Government against third party
21 claims for damages arising from or related to com-
22 petition activities.

1 **SEC. 8. REPORT TO CONGRESS.**

2 Not later than 60 days after the awarding of the first
3 prize under this Act, and annually thereafter, the Sec-
4 retary shall transmit to the Congress a report that—

5 (1) identifies each award recipient;

6 (2) describes the technologies developed by each
7 award recipient; and

8 (3) specifies actions being taken toward com-
9 mercial application of all technologies with respect to
10 which a prize has been awarded under this Act.

11 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

12 (a) AUTHORIZATION OF APPROPRIATIONS.—

13 (1) AWARDS.—There are authorized to be ap-
14 propriated to the Secretary for the period encom-
15 passing fiscal years 2008 through 2017 for carrying
16 out this Act—

17 (A) \$20,000,000 for awards described in
18 section (4)(a)(1);

19 (B) \$20,000,000 for awards described in
20 section 4(a)(2); and

21 (C) \$10,000,000 for the award described
22 in section 4(a)(3).

23 (2) ADMINISTRATION.—In addition to the
24 amounts authorized in paragraph (1), there are au-
25 thorized to be appropriated to the Secretary for each

1 of fiscal years 2008 and 2009 \$2,000,000 for the
2 administrative costs of carrying out this Act.

3 (b) CARRYOVER OF FUNDS.—Funds appropriated for
4 prize awards under this Act shall remain available until
5 expended, and may be transferred, reprogrammed, or ex-
6 pended for other purposes only after the expiration of 10
7 fiscal years after the fiscal year for which the funds were
8 originally appropriated. No provision in this Act permits
9 obligation or payment of funds in violation of section 1341
10 of title 31 of the United States Code (commonly referred
11 to as the Anti-Deficiency Act).

12 **SEC. 10. NONSUBSTITUTION.**

13 The programs created under this Act shall not be
14 considered a substitute for Federal research and develop-
15 ment programs.